



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

APR 25 2014

Todd Poole, Executive Director
North Carolina Republican Party
1506 Hillsborough Street
Raleigh, NC 27605

RE: MUR 6599

Dear Mr. Poole:

On April 22, 2014, the Federal Election Commission reviewed the allegations in the complaint filed by your predecessor, Scott Laster, on June 22, 2012, and based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed the file in this matter on April 22, 2014.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 2 U.S.C. § 437g(a)(8).

Sincerely,

General Counsel

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure: Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: North Carolina Democratic Party – Federal
and Muriel K. Offerman as treasurer

MUR 6599

I. INTRODUCTION

This matter was generated by a complaint filed by Scott Laster on June 22, 2012, alleging violations of the Federal Election Campaign Act of 1971, as amended (the “Act”) and Commission regulations by the North Carolina Democratic Party – Federal and Muriel K. Offerman as treasurer. It was scored as a low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

In this matter, Complainant alleges that the North Carolina Democratic Party (“NCDP”) paid from its non-federal account the salary of a person employed by a “federal electioneering entity,” in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”), and Commission regulations. Compl. at 1.

Specifically, the Complaint alleges that NCDP disclosed on its 2012 First Quarter report filed with the North Carolina State Board of Elections that it paid from its non-federal account the “salary payments and reimbursements” to Krista Anderson, the Operations Director for Organizing for America (“OFA”). The Complaint alleges that OFA is a “federal electioneering entity and as such, cannot be supported through the NCDP state account.” *Id.*

Attached to the Complaint is an apparent page from NCDP’s 2012 First Quarter state filing that partially lists disbursements purportedly made by NCDP between January 2012 and

1 April 2012. Compl., Attach. at 1. The document lists four disbursements to “Krista Anderson,
2 Operations Director (sic), Organizing for America” totaling \$6,379.40: \$3,977.60 for “payroll,”
3 dated January 30, 2012; \$203.05 for “other”¹ and \$37.12 for “mileage,” both dated February 3,
4 2012; and \$2,161.63 for “payroll,” dated February 28, 2012.

5 In its Response, NCDP acknowledges that it had identified Anderson as OFA’s
6 Operations Director on its 2012 First Quarter state filing, but explains that it did so because
7 Anderson changed jobs early in 2012 and “that report was created after her vendor record in the
8 Party’s database had been modified to reflect her new capacity.” Resp. at 1. NCDP maintains
9 that it employed Anderson “in connection with non-federal matters” for a number of years prior
10 to and including the beginning of 2012, and that she was paid for those activities from NCDP’s
11 non-federal account. *Id.* NCDP asserts that its prior state filings had identified Anderson’s title
12 as Senate Caucus Director, a position she apparently held until the beginning of 2012. *Id.* Early
13 in 2012, however, Anderson took on a new role as OFA’s Operations Director. *Id.* NCDP
14 acknowledges that she “engaged in federal activities” in that role, but asserts that she has been
15 paid from NCDP’s federal account for “all of the duties that she has performed in that position.”
16 *Id.* The Response attaches several pages from NCDP’s reports filed with the Commission
17 shewing that NDCP paid Anderson’s “payroll” in February and March of 2012 from its federal
18 account.²

¹ NCDP voided this transaction on December 31, 2012. See NCDP 2012 Fourth Quarter state filing, <http://cfinance-nc.connect4.clarityelections.com/#ExpenditureReport>.

² NCDP reportedly paid Anderson from its federal account as follows: \$1,529.92, dated February 15, 2012; \$2,166.68, dated February 29, 2012; \$2,166.69, dated March 12, 2012; and \$2,166.68, dated March 30, 2012. See NCDP’s March 2012 Amended Monthly Report of Receipts and Disbursements at 64, 69 (Jun. 20, 2012), and April 2012 Amended Monthly Report of Receipts and Disbursements at 108, 138 (Jun. 20, 2012). NCDP’s state filing appears to have misidentified Anderson’s position at the time the payments were made as being in a federal capacity. However, NCDP’s filings with the Commission do not indicate any misreporting of payments to Anderson, nor does the Complaint allege any such misreporting.

B. Legal Analysis

According to Commission regulations, state party committees like NCDP that maintain separate federal and non-federal accounts under 11 C.F.R. 102.5(a)(1)(i) must allocate certain expenses between those accounts. 11 C.F.R. § 106.7(b). However, salaries, wages, and fringe benefits paid for employees who spend more than 25% of their compensated time in a given month on federal election activities, or on activities in connection with a federal election, are not allocable and must be paid entirely from a federal account. 11 C.F.R. § 106.7(d)(1)(ii), (e)(2).

By identifying Anderson in her federal position rather than in her non-federal position, NCDP's First Quarter state filing suggested that Anderson was paid for federal activity from NCDP's non-federal account. The Response asserts that NCDP misidentified Anderson's position on its 2012 First Quarter state filing when it recorded non-federal payments to her as OFA's Operations Director. According to NCDP's disclosure reports, NCDP made its last non-federal payment to Anderson on February 28, 2012, and its first federal payment to Anderson on February 15, 2012, with another federal payment following on February 29, 2012. Any overlap between the federal and non-federal payments, however, appears to be *de minimis* and possibly attributable to NCDP using different pay periods for its federal and non-federal employees. Accordingly, the Commission exercises its prosecutorial discretion and dismisses the allegations that the North Carolina Democratic Party – Federal and Muriel K. Offerman in her official capacity as treasurer violated the Act or Commission regulations. *Heckler v. Chaney*, 470 U.S. 821 (1985).